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TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1937

No. 27

GUY T. HELVERING, COMMISSIONER OF INTERNAL REVENUE, PETITIONER

vs.

H. C. GOWRAN

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR CERTIORARI FILED APRIL 12, 1937

CERTIORARI GRANTED MAY 17, 1937

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1937

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vs.

H. C. GOWRAN

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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1 Before United States Board of Tax Appeals

Docket No. 60890

H. C. GOWRAN, PETITIONER
vs.
COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

Appearances: For Taxpayer: A. L. Nash, Esq. For Comm'r.: J. E. Marshall, Esq., I. Graff, Esq., H. D. Thomas, Esq.

Docket entries

Transferred to Mr. Leech 2/19/34

1931

Dec. 16—Petition received and filed. Taxpayer notified. (Fee paid.)
Dec. 17—Copy of petition served on General Counsel.

1932

Feb. 5—Answer filed by General Counsel.
Feb. 12—Copy of answer served on taxpayer—assigned to General Calendar.
Feb. 23—Order to place on Circuit Calendar for hearing in Milwaukee, Wis. entered.
Jun. 13—Notice of hearing beginning July 25, 1932 at Milwaukee, Wis.
Jul. 26—Hearing had before S. J. McMahon, Div. 16. Submitted on merits. Consolidated for hearing and order with dockets 60891, 2 & 3. Stipulation of facts filed. Brief due 12/15/32—15 days thereafter for replies. Called July 25, 1932.
Aug. 15—Transcript of hearing July 25, 26, 1932 filed.
Dec. 15—Brief filed by taxpayer.

1933

Jun. 29—Memorandum opinion rendered, Stephen J. McMahon, Div. 6. Decision will be entered under Rule 50.
Jul. 18—Motion to reconsider memo opinion and for review by Board filed by General Counsel.
2 Jul. 24—Order that motion for reconsideration be denied entered.
Jul. 26—Hearing set August 28, 1933 at Chicago, Ill. on motion.
Aug. 28—Hearing had before Mr. McMahon, Div. 16. Submitted on motion of respondent to reconsider judgment for the respondent. Briefs due 9/20/33.
Sep. 20—Brief filed by taxpayer.

Sep. 18—Transcript of hearing 8/28/33 filed.

Sep. 22—Motion for extension of time to Oct. 20, 1933, to file brief filed by General Counsel. 9/22/33 granted.

Oct. 19—Memorandum brief filed by General Counsel.

1934

Jan. 15—Order that motion of respondent for reconsideration of memorandum opinion be denied entered.

Jan. 26—Motion for review by Board filed by General Counsel.

Jan. 31—Order that order with accompanying memorandum dated Jan. 16, 1934, be reviewed by the Board entered.

Nov. 20—Order vacating order dated Jan. 15, 1934, and further ordered that motion for reconsideration of memorandum opinion be granted entered.

Nov. 24—Order placing on the next Chicago, Ill. Circuit Calendar for further hearing entered.

Dec. 27—Hearing set week of Feb. 4, 1935, at Chicago, Ill.

1935

Feb. 13—Hearing had before Mr. Leech—one addition issue heard before Mr. Trammell. Submitted on merits. Motion for judgment filed. Briefs due—petitioner's 3/15/35—respondent's 4/1/35—petitioner's reply 4/12/35.

Feb. 20—Transcript of hearing of 2/13/35 filed.

Mar. 15—Brief filed by taxpayer. 3/15/35 copy served.

Mar. 30—Memorandum reply brief filed by General Counsel.

Apr. 13—Order extending time to April 15, 1935, to file reply brief entered.

Apr. 13—Reply brief filed by taxpayer.

Apr. 16—Copy of order and reply brief served.

Jun. 27—Opinion rendered, J. Russell Leech. Decision pursuant to Rule 50.

Jun. 27—Motion for judgment denied.

Jul. 19—Notice of settlement filed by General Counsel.

Jul. 22—Hearing set August 7, 1935, on settlement.

Aug. 7—Hearing had before Mr. Black (Leech) on settlement under Rule 50. (Letter from petitioner) not contested. Div. 15 for decision.

Aug. 9—Decision entered, Div. 15, Eugene Black.

Sep. 20—Motion to fix amount of bond filed by taxpayer.

Sep. 21—Order fixing amount of bond at $8,700 entered.

Nov. 8—Supersedeas bond in the amount of $8,700.00 approved and ordered filed.

Nov. 8—Petition for review by U. S. Circuit Court of Appeals (7) with assignments of errors filed by taxpayer.

Nov. 8—Proof of service filed by taxpayer.

Dec. 26—Motion for extension to Feb. 6, 1935, to transmit and deliver record filed by taxpayer.

Dec. 26—Order enlarging time to Feb. 6, 1936, to complete and transmit record entered.

1936

Jan. 22—Praecipe with proof of service thereon filed by taxpayer.

Feb. 3—Motion for extension to March 7, 1936, to transmit and deliver record filed by taxpayer.

Feb. 3—Order extending time to March 7, 1936, to transmit and deliver record entered.

Before United States Board of Tax Appeals

[Title omitted.]

Petition

Filed Dec. 16, 1931

The above named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency dated October 19, 1931, and further identified by the symbols

IT:AR:D-2

MR-60D

and as a basis of his proceeding alleges as follows:

4 1. The petitioner is an individual, residing at 2403 Jefferson Street in the city of Two Rivers, Wisconsin.

2. The notice of deficiency and accompanying statement (copies of which are attached and marked Exhibit A) were mailed to the petitioner on October 19, 1931.

3. The deficiency by the Commissioner amounts to Five Thousand Eight Hundred Thirty-one and 67/100 Dollars ($5,831.67), being income taxes for the calendar year 1929, and the total amount of such deficiency is in controversy.

4. The determination of tax set forth in the said notice of deficiency is based upon the following error:

(1) The Commissioner erroneously found that the stock dividend of 533.715 shares of preferred stock which Hamilton Manufacturing Company distributed to petitioner on July 1, 1929, was redeemed by the company in such manner as to make the transaction equivalent to the distribution of a taxable dividend.

5. The facts upon which the petitioner relies as the basis of this proceeding are as follows:

(1) On July 1, 1929, Hamilton Manufacturing Company, a Wisconsin corporation, hereinafter called the Company, distributed a stock dividend to its common stockholders, amounting to Fourteen Dollars ($14.00) per share on the shares of common stock then outstanding. The dividend was paid entirely in shares of the Com-